

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

RANDALE GRIFFIN,

Petitioner,

v.

Case Number 07-CV-14402

Honorable Thomas L. Ludington

LINDA METRISH,

Respondent.

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**ORDER DENYING DEFENDANT'S MOTION FOR CERTIFICATE OF  
APPEALABILITY AND MOTION TO PROCEED IN FORMA PAUPERIS**

In October 2007, Petitioner Randale Griffin filed a pro se petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. ECF No. 1. On April, 17, 2009, the Court issued an opinion order denying the petition and declining to issue a certificate of appealability. *Griffin v. Metrish*, No. 07-CV-14402 (E.D. Mich. Apr. 17, 2009) (unpublished). In pertinent part, the Court explained that it was declining to issue a certificate of appealability because Petitioner had not made a substantial showing of the denial of a constitutional right and because any appeal would be frivolous.

On January 13, 2012, Petitioner filed a motion for relief from former judgment. ECF No. 36. Petitioner wrote that his “motion is based on a ‘fraud on the district courts.’” Pet’r’s Mot. ¶ 12. In substance, Petitioner’s motion was a motion for reconsideration — he requested that the Court “revisit its former ruling.” *Id.* ¶ 14. On February 21, 2012, the Court entered an order denying Petitioner’s motion. *Griffin v. Metrish*, No. 07-CV-14402, 2012 WL 553323 (E.D. Mich. Feb. 21, 2012).

Petitioner now moves for a certificate of appealability and leave to proceed in forma pauperis on appeal. A certificate of appealability may issue “only if the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). When a court rejects a habeas claim on the merits, the substantial showing threshold is met if the petitioner demonstrates that reasonable jurists would find the district court’s assessment of the constitutional claim debatable or wrong. *See Slack v. McDaniel*, 529 U.S. 473, 484–85 (2000). “A petitioner satisfies this standard by demonstrating that . . . jurists could conclude the issues presented are adequate to deserve encouragement to proceed further.” *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003). As this Court previously explained in its order denying the petition for a writ of habeas corpus, and reiterated in its order denying the motion for relief from former judgment, Petitioner has not made a substantial showing of the denial of a constitutional right. Accordingly, a certificate of appealability is not warranted in this case. Petitioner will also not be granted leave to proceed in forma pauperis on appeal, as any appeal would be frivolous. See Fed. R. App. P. 24(a).

Accordingly, it is **ORDERED** that the motion for a certificate of appealability (ECF No. 41) is **DENIED**.

It is further **ORDERED** that the motion to proceed in forma pauperis on appeal (ECF No. 42) is **DENIED**.

s/Thomas L. Ludington  
THOMAS L. LUDINGTON  
United States District Judge

Dated: March 26, 2012

**PROOF OF SERVICE**

The undersigned certifies that a copy of the foregoing order was served upon each attorney of record herein by electronic means and upon Randle Griffin, #196968 at G. Robert Cotton Correctional Facility, 3500 N. Elm Road, Jackson, MI 49201 by first class U.S. mail on March 26, 2012.

s/Tracy A. Jacobs  
TRACY A. JACOBS